

### **REMARKS**

This Amendment and Response is fully responsive to the Final Office Action mailed January 13, 2010 (“Office Action”). By these amendments, Claims 1, 3, 9, 15-16, 18, 24, 28, 31, 35, 39, 40-44, and 50-51 have been amended; Claims 2, 8, 23, 30, 38, and 45-47 have been cancelled; and Claim 52 has been added. After entry of these amendments, Claims 1, 3, 9, 13, 15-16, 18, 24, 28 and 31-37, 39-44, and 48-52 remain pending. Applicants respectfully submit that no new matter has been added by the foregoing amendments, and that support can be found in the specification as originally filed. In view of these amendments and remarks, Applicants respectfully assert that the rejections are now made moot and reconsideration and allowance of the application is respectfully requested. A Request for Continued Examination under 37 C.F.R. § 1.114 is being contemporaneously submitted herewith.

Applicants thank Examiners Kim and Hewitt for graciously granting the telephonic interview on April 8, 2010 with Mr. Brian Decker (“Interview”), and for their time, attention, and recommendations during the Interview. During the Interview, a background of the invention and an overview of the references relied on in the Office Action were discussed. It was agreed that incorporating features such as those previously recited by now cancelled dependent Claim 2 – the associating priority values to different post-issue event information types and determining a lead time based at least partially thereon – into the independent claims would overcome the cited references. As discussed below, Applicants have amended the claims as agreed.

### **Claim Rejections under 35 U.S.C. § 112, first paragraph**

In the Office Action, Claim 41 was rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement. Applicants respectfully submit that the elements “receive an identification of the payee prior to transmitting the user interface” and “wherein the user interface presenting the at least two payment options is at least partially generated based on the determination of whether the payment to the payee would be issued in electronic or paper form” have sufficient written support in the specification as originally filed, considering at least paragraphs [0261] and [0264]-[0265]. More specifically, for example, paragraph [0261] states: “a subscriber identifies a payee” and paragraph [0264] states: “[t]he processor 315 generates the second user interface based upon the identity of the payee . . .

and causes a communication interface 315 to transmit the generated second user interface . . . .”

Paragraph [0265] states: “If the payee is not an electronic managed payee the second user interface will include the future-dated option and the EAP option along with information identifying the estimated time to completion of payment. If the payee is an electronic managed payee, the second user interface will also include the IPP option.” Any person skilled in the art would appreciate that the scope of Claim 41 was clearly within possession of the inventors, as required by § 112, first paragraph. Accordingly, Applicants respectfully request this rejection be withdrawn.

**Claim Rejections under 35 U.S.C. § 112, second paragraph**

In the Office Action, Claims 1-3, 8-9, 13, 15-18, 23-24, 30-45, 48, and 45-51 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicants’ responses to each of the numbered paragraphs of the Office Action, (*see* Office Action, pgs. 3-7), are provided below.

Paragraphs 12-14: As discussed in the Interview, and as per the present amendments, Claim 1 as amended is sufficiently clear and no critical or essential steps are omitted. Claim 1 clearly recites that the “post-issue event information,” which is received by the payment servicing computing system, “includes at least two of the plurality of types of post-issue event information instances” which expressly include “posting information, deposit information, payment receipt information, account crediting information, settlement information, or clearing information.” Thus, the post-issue event information received by the payment servicing computing system includes posting information, deposit information, payment receipt information, account crediting information, settlement information, or clearing information. In fact, if the claim is amended as suggested in the Office Action (pg. 3), the claim would include a redundant step of receiving the same information twice, which is not what is intended by these claims.

Moreover, with reference to paragraph 14 of the Office Action, it is immaterial to the claimed invention whether the “post-issue event information” was received directly from the payee or from another entity, as discussed during the Examiner’s Interview.

The present amendments of Claim 1 also further clarify for which post-issue event information the payment lead time is determined – those “of the type having the highest priority level.”

Accordingly, Applicants respectfully request the rejections in paragraphs 12-14 of independent Claims 1, 15, and 44, and those rejected that depend therefrom, be withdrawn.

Paragraph 15: Claims 2 and 17 have been cancelled by these amendments, thereby rendering this rejection moot.

Paragraph 16: Applicants have amended dependent Claims 3 and 18, thereby rendering this rejection moot.

Paragraph 17: Claims 8 and 23 have been cancelled by these amendments, thereby rendering this rejection moot.

Paragraph 18: Applicants have amended dependent Claim 9, thereby rendering this rejection moot.

Paragraph 19: Applicants respectfully submit that no essential step is missing in dependent Claims 9 and 24, and that the claims as amended are clear and definite to one of ordinary skill in the art, as required by § 112, paragraph 2. Specifically, with reference to Claim 9, for example, it would be clear to one of ordinary skill in the art that the post-issue event information received is at least of two different types, as expressly recited by independent Claim 1, and that the payment servicing computing system can be configured to make the determination of the type of information by any number of means. It therefore is unnecessary to explicitly recite the step of determining which types of post-issue information are received to fully and clearly understand the scope of the claimed invention, and therefore it is unnecessary to include this extra operation within the scope of the claims.

In addition, Applicants have amended dependent Claims 9, 15, 24, and 43 to recite “includes” instead of “identifies,” rendering this rejection moot.

Accordingly, Applicants respectfully request the rejections in paragraph 19 be withdrawn.

Paragraph 20: Applicants respectfully submit that the meaning of “a predetermined depositing adjustment period” would be clearly understood to one of ordinary skill in the art as a period of time, which is predetermined, to be used to adjust deposit durations. Further definition and understanding of this term can be found in at least paragraphs [0101] of the specification as

originally filed. Applicants respectfully submit that Claims 31 and 39 therefore satisfy the requirements of § 112, second paragraph, and request that the rejection be withdrawn.

Paragraph 21: Applicants have amended Claims 35 and 41, thereby rendering this rejection moot.

Paragraph 22: Applicants have cancelled Claim 38 and amended Claim 39, thereby rendering this rejection moot.

### **Applicants' Response to Examiner's Comments**

In pages 8 and 9 of the Office Action, the Examiner identifies various portions of the specification providing example structure supporting various means for elements of independent Claim 44, as well as definitions for certain elements (namely “associating/associated,” “lead time,” and “partially”). Applicants do not admit that these are the only possible definitions of these elements, and that varying other reasonable definitions may be possible, in light of the specification, the use of the elements in context of the surrounding claim language, the ordinary meaning of the words, other possible dictionary definitions of the words, the understanding of one of ordinary skill in the art, and any other intrinsic and/or extrinsic evidence that may be useful in deducing the meaning of these elements.

For example, with respect to paragraph 27, Applicants respectfully refute attributing a piecemeal construction to the term “lead time” without considering the claim in its entirety. (*See e.g., Hockerson-Halberstadt, Inc. v. Converse Inc.*, 183 F.3d 1369, 1374 (Fed. Cir. 1999) (“proper claim construction ... demands interpretation of the entire claim in context, not a single element in isolation.”)).

Similarly, with respect to paragraph 29, Applicants submit that the term “posting information” shall not be constrained by the definition of “post” provided in the Office Action. The term “posting information” would easily be understood by one of ordinary skill in the art, and can further be understood with reference to the specification, such as at paragraph [0081], stating: “a time that a payee posts payment to a payor’s account with the payee.”

### **Claim Rejections under 35 U.S.C. § 103**

In the Office Action, Claims 1, 8, 9, 13, 16, 23, 24, 28, 30, 31, and 44-51 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Applicants’ Background

(“Background”) in view of U.S. Patent No. 6,292,789 to Schutzer (“*Schutzer*”) and U.S. Patent Application No. 2003/0055783 to Cataline *et al.* (“*Cataline*”). Applicants do not acquiesce the rejections in the Office Action and respectfully assert that the claims as previously presented are allowable over the cited references. However, in an effort to expedite examination, Applicants have amended the claims as discussed during the Interview.

As agreed upon during the Interview, the amendments to independent Claims 1, 16, and 44 overcome these rejections. Specifically, by example, Claim 1 has been amended to include the features of:

associating a respective priority level to each of a plurality of types of post-issue event information instances, wherein the plurality of types comprises two or more of: posting information, deposit information, payment receipt information, account crediting information, settlement information, or clearing information;

receiving post-issue event information . . . wherein the post-issue event information comprises a plurality of post-issue event information instances, each associated with a respective one of the plurality of payments, wherein the post-issue event information includes at least two of the plurality of types of post-issue event information instances;

identifying . . . the post-issue event information instances of the type having a highest priority level;

determining a payment lead time . . . based upon the stored information and the respective post-issue event information instances of the type having the highest priority level for at least a subset of the plurality of payments, to complete a future payment to the payee issued on behalf of a payor . . . .

(Underlining supplied). Accordingly, independent Claim 1 has been amended to include that the “the post-issue event information includes at least two of the plurality of types of post-issue event information instances,” and that “each of a plurality of types of post-issue event information instances” is associated with “a respective priority level.” In addition, Claim 1 has been amended to further include the feature of “identifying the post-issue event information instances of the type having a highest priority level,” wherein “determining a payment lead time” is “based upon the stored information and the respective post-issue event information instances of the type having the highest priority level . . . .” Independent Claims 16 and 44 have been

similarly amended. Support for these amendments can be found in at least paragraphs [0082], [0084]-[0086], [0208]-[0232] and Figure 7 of the specification as originally filed.

As agreed to in the Interview, neither the Background, *Schutzer*, nor *Cataline*, alone or in combination, recite the features recited in independent Claims 1, 16, and 44, as amended hereby. Applicants, therefore, respectfully submit that amended independent Claims 1, 16, and 44 are allowable over the cited references. Furthermore, Applicants state that dependent Claims 3, 9, 13, 15, 18, 24, 28 and 31-37, 39-43, and 48-52 are allowable as a matter of law as depending from an allowable claim, notwithstanding their independent recitation of patentable features.

#### **Allowability of New Independent Claim**

Independent Claim 52 has been added by these amendments. Applicants respectfully submit that independent Claim 52 is allowable over the cited references for similar reasons as discussed during the Examiner Interview.

Specifically, new independent Claim 52 includes the following features:

- receiving post-issue event information . . . wherein the post-issue event information includes at least two of the following types of post-issue event information: posting information, deposit information, payment receipt information, account crediting information, settlement information, or clearing information;

- defining a threshold for a number of post-issue event information instances to be used to determine a payment lead time;

- determining a payment lead time . . . based upon the stored information and the respective post-issue event information instances of the type or types for which the number of instances of the same type exceeds the threshold and excluding the post-issue event information instances of the type or types not meeting the threshold . . . .

Accordingly, new independent Claim 52 includes the features of “defining a threshold for a number of post-issue event information instances to be used to determine a payment lead time” and “determining a payment lead time . . . based upon . . . respective post-issue event information instances of the type or types for which the number of instances of the same type exceeds the threshold and excluding the post-issue event information instances of the type or types not meeting the threshold . . . .” Support for these amendments can be found in at least paragraphs [0097]-[0099] and [0208]-[0232] and Figure 7 of the specification as originally filed.

Applicants respectfully submit that neither the Background, *Schutzer*, nor *Cataline*, alone or in combination, teach, suggest, or render obvious the feature of “determining a payment lead time . . . based upon . . . respective post-issue event information instances of the type or types for which the number of instances of the same type exceeds the threshold and excluding the post-issue event information instances of the type or types not meeting the threshold . . . .” In fact, as discussed during the Interview, *Schutzer* merely states that “[t]he biller may submit an acknowledgement of receipt for payment of the bill either separately . . . or included in a new bill to the consumer . . . . the biller may submit acknowledgement for the payment received to the bill service provider separately.” (*Schutzer*, col. 20, lines 41-47). Nothing is described or suggested regarding using this acknowledgement to determine a lead time. In fact, the acknowledgement is not described as including date or time information, at least one of which would be needed to determine a lead time. Similarly, also discussed during the Interview, the casual mention of the word “lead time” in *Cataline* as a “variable” in an “optimization model” to “optimize the transfer mechanism for transferring funds,” (*see Cataline*, paras. [0054]-[0055]), does not teach or suggest determining a lead time according to the features recited by new independent Claim 52. Using a lead time does not render obvious the unique operations to determine a lead time as recited by the claimed invention. Finally, the Background simply relates to a “standard lead time” for electronic payees and non-electronic payees, and does not describe the determination of lead using post-issue event information. (*See Background*, paras. [0049]-[0051]).

Accordingly, Applicants submit that newly provided independent Claim 52 is also allowable over the cited references.

**CONCLUSION**

Reconsideration of the Application is requested in light of the amended claims and the remarks. Applicants believe they have responded to each matter raised in the Office Action. Allowance of the claims is respectfully solicited. It is not believed that any extensions of time or additional fees are required beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

If there are any issues which can be resolved by teleconference call or an Examiner's Amendment, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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